

## UNITED STATES DISTRICT COURT

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICOfor the  
District of New Mexico

2019 JUL 11 PM 2:20

CLERK-LAS CRUCES

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)3500 Foothills Road, Aptment C-17  
Las Cruces, New Mexico 88011

Case No.

19-804-MR

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

The residence at 3500 Foothills Road, Aptment C-17, Las Cruces, NM as more fully described in Attachment A.  
located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):  
See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 26 U.S.C. § 5861(f)	Making a Firearm in Violation of the National Firearms Act

The application is based on these facts:  
See Attachment C, which is hereby attached and incorporated by reference into this warrant.

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

Jared Kattah, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

July 11, 2019

City and state: Las Cruces, New Mexico



Judge's signature

Judge Karen Molzen, United States Magistrate Judge

Printed name and title

## ATTACHMENT A

### DESCRIPTION OF PROPERTY TO BE SEARCHED

#### The Premises

The premises (residence ~~and all outbuildings~~) *KBM*

3500 Foothills Road  
Apartment C-17  
Las Cruces, New Mexico 88011

#### The Premises' Physical Description

The premises is located in a multi-story apartment complex. The numbers "17" are clearly visible on the right side of the front door of the apartment. The apartment is tan in color.



*KBM*





*from*

**ATTACHMENT B**

**ITEMS TO BE SEIZED**

- Firearms
- Firearms parts used in the manufacture of firearms, to include, but not limited to:
  - Unfinished (unserialized) and finished (serialized) lower receivers
  - Upper receivers and upper kits
  - Bolts, barrels, grips, slides/frames, stocks, gas tubes, trigger assemblies, pin sets, springs
  - Full-auto sears and full-auto/select fire switches
- Tools commonly used in the manufacture and augmentation of firearms, to include, but not limited to:
  - Drill presses
  - Milling machines
  - Lathes
  - Jig kits and conversion kits
  - Dremel, router, grinding and welding tools
  - Cutting Bits, Drill Bits, Grinding Bits
- Documents evidencing firearms acquisitions and dispositions such as:
  - Receipts and invoices
  - Shipping labels/packages
  - Pawn slips
  - Gun show advertisements
  - Photographs of firearms
  - Publications, newsletters, or other documents containing information relating to manufacturing machine guns and/or silencers

*KBM*

- Publications, documents, or literature containing Federal or State Firearms Laws or Regulations
  - Ledgers
- Documents reflecting financial transactions for firearms, including but not limited to:
  - Check registers, canceled checks, money orders, bank checks
  - Credit card and bank statements
  - Other documents evidencing payments for firearms, explosive materials, or components used in improvised explosive devices
- Computers and mobile phones which will contain evidence of researching firearms and firearms parts and ordering firearms and firearms parts via the internet
- SD cards or any other means of electronic storage
- Records of information items relating to the ownership or use of computer equipment or cellular phones found in the premise including sales receipts, or hand written notes, ledgers
- Telephone address books, electronic address books, telephone bills, cellular/mobile telephones containing internal address books and telephone numbers
- Notes, and other documents containing the names, telephone numbers, and/or addresses of firearm sources
- Indicia of residency or control of the premises, records, information related to occupancy including telephone bills, vehicle registration, utility bills, cable bills.
- Records and information of identities or locations of the individuals violating federal law

All of which are fruits, instrumentalities, and evidence of the commission of a criminal offense concerning violations of Title 18, United States Code, Section 922(a)(1)(A) – Engaging in the Business without a License and Title 26, United States Code Section 5861(f) – Making a Firearm in Violation of the National Firearms Act.

*KBM*

**ATTACHMENT C - AFFIDAVIT IN SUPPORT OF ORDER AUTHORIZING  
SEARCH WARRANT**

I, Jared Kattah, being duly sworn, state as follows under oath:

1. Your affiant, Jared Kattah, is a Special Agent (S/A) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and has been employed since September 2015. As part of training to become an ATF Special Agent, your affiant attended six months of specialized training sponsored by the Federal Law Enforcement Training Center in Glynco, Georgia. As a result of this training, your affiant has been certified as a Federal Investigator and has received specific training involving violations of federal law. Your affiant has also received ATF specific training in the determination of probable cause and in the use of warrants and complaints to enforce federal firearms laws. Your affiant is currently assigned to the Las Cruces, New Mexico Field Office.
2. Your affiant, being duly sworn, states the following to be true and correct to the best of his knowledge and belief based upon his personal observations and from information provided by knowledgeable law enforcement agents and officers who are involved in the investigation of Bryan VILLANUEVA. The facts outlined in this narrative are not meant to be a complete narrative of all that has occurred in connection with this investigation, but are only a summary of facts necessary to set forth probable cause in support of the search warrant and does not purport to set forth all of the affiant's knowledge regarding this investigation.
3. Your Affiant knows from personal experience as an ATF Special Agent, and in particular, from participation in the execution of search warrants authorizing the seizure of firearms, that those who own and possess firearms and ammunition generally maintain possession of them for long periods of time. Persons who own firearms and ammunition generally keep them on



their persons, in their residence and motor vehicles, or in places where they store their personal property. Firearms are not depleted through use, nor are they exchanged immediately after being obtained. The reasons owners of firearms generally maintain firearms and ammunition in or about their home, business or vehicles include the facts that maintenance of them in or about their home, business or vehicle permits easy access to the firearms and ammunition must be maintained in an environment where they will be secure from theft, as well as safe from rust and corrosion. In the residence, business, vehicle, and on the person, the firearm is readily available in the event the need for its use arises.

4. Your Affiant also knows through personal experience and training that most individuals who purchase or possess firearms retain certain documents relating to those purchases, such as sales receipts, factory warranties, and canceled checks, and other miscellaneous documents among their personal property. Your Affiant also knows through experience and training that almost without exception individuals who possess firearms also possess related items such as gun cases, ammunition, gun cleaning supplies and equipment, related to the care and maintenance of the firearms.

#### **IDENTIFICATION OF PROPERTY TO BE SEARCHED**

1. The property to be searched is the residence 3500 Foothills Road, Apartment C-17, to include the curtilage, and any sheds or outbuildings located on and within the property.

#### **PROBABLE CAUSE**

2. The facts in this affidavit come from my personal participation in this investigation, my training and experience and official records and information obtained from other agents and witnesses. This affidavit is intended to show merely there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

3. In November 2018, ATF agents arrested Luis CAMARENA for federal firearms violations. A search of CAMARENA's cell phone pursuant to a search warrant identified Bryan VILLANUEVA Valles (VILLANUEVA) as the user of phone number 575-386-1003. VILLANUEVA communicated with CAMARENA on multiple occasions about manufacturing firearms for CAMARENA who then sold the firearms to individuals in Mexico.
4. On November 1, 2018, CAMARENA and VILLANUEVA had the following conversation when CAMARENA asked, "Carnal un aprox para cuando llega las q pedimos" (Bro approximately when will the stuff we asked for arrive). VILLANUEVA responded, "Se me olvidó mandarte las fotos yo le veo un aprox este sábado a más tardar el lunes" (I forgot to send you the photos looks like approximately Saturday or Monday at the latest). VILLANUEVA then sent CAMARENA a screen shot from a website where firearm parts were ordered from. The second was from Thunder Guns Website regarding a shipment.
5. Agents made contact with Thunder Guns LLC in Daytona Beach Florida and they provided the name and email for the individual that ordered the firearm parts discussed in VILLANUEVA's message. In December 2018, agents spoke with D.N. the individual who ordered the parts from Thunder Guns. D.N. stated Bryan VILLANUEVA paid him to order the firearm parts, have them delivered to his apartment, and then turn them over to VILLANUEVA. VILLANUEVA told D.N. that he built firearms to sell to individuals in Mexico.
6. Also in December 2018, agents learned from a reliable confidential informant (CI) that VILLANUEVA had two residences where he lived or spent most of his time. The addresses were 740 Horizon View Drive Las Cruces, New Mexico 88011 and 1950 Wyoming Ave



Apartment 13 Las Cruces, New Mexico 88001. VILLANUEVA possesses New Mexico Driver's License number 512456731, issued on July 20, 2018, and bears the address 740 Horizon View Drive Las Cruces, New Mexico 88011. Records checks indicated the residence at 740 Horizon View belonged to Delia Valles-Rosales, a suspected relative of VILLANUEVA.

7. In April 2019, ATF SA-4155 acting in an undercover capacity (UC) made contact with VILLANUEVA via cell phone number 915-342-7089. The UC arranged the purchase of an AR-Type rifle from VILLANUEVA for \$1,300.00. Immigration records reflected that VILLANUEVA was issued a nonimmigrant visa (B1/B2/Border Crossing Card (BCC)) and VILLANUEVA was not a citizen or Lawful Permanent Resident of the United States. No records were located that would grant VILLANUEVA an exemption under Title 18 United States Code Section 922(y)(2).
8. On April 30, 2019, United States Magistrate Judge Robert F. Castaneda signed search warrant number EP-10-M-04623-ATB granting agents authority to obtain cell phone location data (Phone pings) from AT&T for phone number 915-342-7089, the cell phone number utilized by VILLANUEVA. The cell phone location data indicated VILLANUEVA was living at 1950 Wyoming Ave. Apt 13 Las Cruces, NM 88001. The number of phone pings, and the times they occurred indicated VILLANUEVA was residing at the apartment. VILLANUEVA also frequented the address at 740 Horizon View Drive.
9. On May 1, 2019, while conducting surveillance at 1950 Wyoming Ave. Las Cruces, NM 88001, ATF agents observed VILLANUEVA's vehicle parked in the apartment complex parking lot. The vehicle is a Red Kia RIO bearing New Mexico Tag AKBB09 registered to Bryan VILLANUEVA-Valles and Delia Valles Rosales at 740 Horizon View Dr. Las

Cruces, NM 88011. After a few minutes of conducting surveillance, agents observed VILLANUEVA walking from the area of apartment number 13 carrying an unidentified object in his hands. VILLANUEVA opened the trunk to his vehicle and placed the object inside of the trunk. VILLANUEVA then left the area in his vehicle.

10. The cell phone location data from the morning of May 1, 2019, indicated VILLANUEVA traveled from Las Cruces New Mexico to El Paso Texas where VILLANUEVA sold the UC an AR-Type, 5.56mm, short barrel rifle (SBR), manufactured from an unmarked unfinished lower receiver, commonly referred to as an eighty percenter. When the purchase was made, VILLANUEVA retrieved the SBR from the trunk of his red KIA Rio and handed it to the UC. The UC stated there were no other items the UC could see inside of VILLANUEVA's trunk.
11. The SBR had a barrel length of approximately nine and a half inches and an overall length of approximately twenty-eight inches, which made the firearm subject to the National Firearms Act (NFA). A check of ATF NFA records indicated VILLANUEVA did not have any NFA firearms registered to his name and the firearm he possessed was not registered to any individual. At approximately 21:15 hours, on May 1, 2019, VILLANUEVA again traveled from Las Cruces New Mexico to El Paso Texas, where he sold a second SBR to the UC for \$1,100.00.
12. On May 10, 2019, at the direction of VILLANUEVA, the UC deposited \$2,300.00 into an account at First Convenience Bank in the name of Emilio Perez, account number 478292766. Later that day, VILLANUEVA sent the UC a photograph of a hand holding U.S. currency. The money was a down payment for five more firearms that VILLANUEVA agreed to build for the UC. VILLANUEVA agreed to have the firearms built for the UC by May 21, 2019.

On May 21, 2019, VILLANUEVA contacted the UC and explained the firearm parts had not arrived. VILLANUEVA then sent the UC a screenshot from United States Postal Service that listed "Tracking Number: 9410810298370987560427."

13. A check of the tracking number indicated the package was being sent from Daytona Beach Florida the same location as Thunder Guns LLC where VILLANUEVA had ordered firearm parts from in the past. ATF SA Anderson contacted Thunder Guns LLC and provided them with the tracking number. SA Anderson was informed by Thunder Guns LLC the tracking number was related to an order of five AR-Type pistol kits that included complete unassembled AR-Pistol upper receivers with 80 percent unfinished lower receivers (ULRs). The package was shipped from Thunder Guns LLC in Daytona Beach, FL to Kristopher TENA at 1840 Myrtle Ave. Las Cruces, NM 88001.
14. Records checks into the address at 740 Horizon View Drive Las Cruces, New Mexico indicated several packages were sent to the address in the months of March and May 2019. Several of the packages were sent from companies that deal with firearms and firearm parts and accessories. SA Anderson contacted several of the companies and learned parts associated with the manufacturing of AR-Type firearms were ordered from the companies.
15. On March 13, 2019, an order of three Black Mil spec 6 position Receiver Extension Buffer Tubes were ordered from J&E Machinery and sent to "Charmin De la Calle" at 740 Horizon View Dr, Las Cruces, NM 88011 with phone number 915-342-7089, the same phone number as VILLANUEVA. On March 25, 2019, an order of six Tactical Stubby Forward Vertical Grips and six collapsible buttstocks was shipped from Extreem Tactical to Charmin De la Calle at 740 Horizon View Dr, Las Cruces, NM 88011 with phone number 915-342-7089



16. On May 13, 2019, an order of five buffer tubes, five receiver end plates and castle nut sets, and two .223 buffer springs was made from Import Tactical and shipped to Charmin De la calle at 740 Horizon View Dr, Las Cruces, NM 88011. The parts were purchased from Ebay User ID: Bryan.vil-18 and the purchaser provided phone number 915-342-7089.
17. May 31, 2019, VILLANUEVA met with the UC again in El Paso Texas to sell the UC five SBRs. During the meeting, a vehicle driven by Kristopher TENA arrived with the five firearms. VILLANUEVA also sold the UC approximately one ounce of cocaine that was also delivered by TENA. The five SBRs sold to the UC by VILLANUEVA were all manufactured from ULRs utilizing the exact materials shipped from Thunder Guns LLC to Kristopher TENA.
18. The cell phone location data or phone pings indicated VILLANUEVA stopped living at the apartment located at 1950 Wyoming Ave. #13 on or about June 6, 2019. The phone pings indicated VILLANUEVA moved to the 740 Horizon View Drive address, where he appeared to live until June 18, 2019, when phone pings indicated VILLANUEVA moved to an apartment located at 3500 Foothills Rd. Las Cruces, NM 88001 which is less than a quarter of a mile from Horizon View Drive. VILLANUEVA continued to frequent the residence at 740 Horizon View Drive after it appeared he moved to the apartment on Foothills Rd.
19. On June 13, 2019, at the direction of VILLANUEVA, the UC attempted to deposit \$2,500.00 into Bank of America account number 439008879118 in the name Bryan Villanueva. The money was to be a down payment for six additional firearms to be built by VILLANUEVA and sold to the UC. Bank of America would not allow the UC to deposit cash into the account so VILLANUEVA opened an account at First Convenience Bank and provided the UC with account number 653507103 in the name of Bryan Villanueva. The UC deposited

the \$2,500.00 into that account and VILLANUEVA informed the UC he had gotten the money.

20. On July 4, 2019, VILLANUEVA sent the UC a photograph of an AR-Type ULR inside of a vice type device covered in metal shavings. VILLANUEVA explained he was working on the order. Phone pings at the time the photograph was sent indicated VILLANUEVA was in far east El Paso, close to Horizon City.
21. On July 8, 2019 at 08:34 hours MDT, VILLANUEVA sent the UC a photograph of a Sig Sauer pistol with a red dot sight and asked the UC if he wanted to purchase the pistol. At the time the photograph was sent, cell phone pings indicated VILLANUEVA's phone was at the apartments located at 3500 Foothills Rd.
22. On July 10, 2019 at 01:27 hours MDT, VILLANUEVA sent the UC a photograph of five AR-Type firearm lower receivers with pistol grips and butt stocks attached lying on carpet. VILLANUEVA explained he was still working on the firearms. Later that morning at 09:32 hours MDT, VILLANUEVA sent the UC a photograph of five AR-Type Short Barrel Rifles lying on the same carpet. Cell phone pings indicated VILLANUEVA's phone was at the apartments located at 3500 Foothills Rd. when both photographs were taken.
23. ATF Special Agent was present and conducting surveillance at 3500 Foothills Rd. at the time the second photograph was sent by VILLANUEVA at 09:32 hours. At that time, the red Kia Rio registered to VILLANUEVA that had been used during all three firearm purchases was parked in a parking space at the apartments located at 3500 Foothills Rd.
24. On July 11, 2019, ATF Special Agent conducted surveillance at 3500 Foothills Road in Las Cruces New Mexico. ATF Special Agent observed VILLANUEVA and a male subject carrying a large plastic storage container into a Red in color Jeep bearing NM plate 958TSF.

The Jeep arrived to a controlled undercover buy occupied by the male subject in El Paso, Texas. During the transaction, the large plastic storage container was transferred from the Jeep to the Undercover vehicle. There were multiple rifles and a handgun located in the plastic storage container. VILLANUEVA was taken into custody after the undercover purchase of firearms. During a post-Miranda interview, VILLANUEVA advised that he had a firearm in his apartment.

25. Law enforcement personnel were able to confirm through the leasing office at 3500 Foothills Road that VILLANUEVA resides at 3500 Foothills Road, Apartment C-17, Las Cruces, New Mexico.
26. **WHEREFORE**, I believe that based upon the information contained herein, there is probable cause to obtain a search warrant of the residence 3500 Foothills Rd. Apt. C-17 Las Cruces, NM 88011, to collect indicia of residency, evidence of a crime, contraband, fruits of a crime, or other items illegally possessed in order to procure evidence and/or instrumentalities of a violation of violation of Title 18, United States Code, Section 922(a)(1)(A) and Title 26, United States Code, Section 5861(f).
27. This search warrant was reviewed and approved by Assistant United States Attorney Maria Armijo.



Jared Kattah, Special Agent

Bureau of Alcohol, Tobacco, Firearms and Explosives



**Subscribed and sworn to before**

me this 11<sup>th</sup> day of July, 2019

A handwritten signature in blue ink, reading "Karen Molzen", is written over a horizontal line.

Judge Karen Molzen, United States Magistrate Judge